IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Crl.MC.No. 2987 of 2007()

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CC.1512/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VARKALA
CRIME NO.171/2004 OF VARKALA POLICE STATION

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PETITIONER: 4TH ACCUSED

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BADARUDDIN, S/O. ABDUL SALAM,
MELKUNNIL VEEDU, PUNNAKULAM, EDAVA, VARKALA.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN

RESPONDENTS:

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STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J.**

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Crl.M.C.No.2987 of 2007

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Dated this the 26th day of September 2007

**O R D E R**

The petitioner faces indictment in a prosecution for offences punishable inter alia under Section 379 read with 34 I.P.C. The petitioner was granted anticipatory bail by this court. Investigation is not complete. Final report has been filed. Cognizance has been taken. The case has been registered. After cognizance was taken, the petitioner could not appear before the learned Magistrate. Consequently, coercive processes have been issued against the petitioner. The petitioner finds warrant of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His absence was not wilful. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

**(R.BASANT, JUDGE)**

jsr

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007